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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WILLIAM O. CAMP, JR.

Appeal 2008-3721
Application 10/809,179¹
Technology Center 2600

Decided²: February 12, 2009

Before KENNETH W. HAIRSTON, ROBERT E. NAPPI, and MARC S.
HOFF, *Administrative Patent Judges*.

HOFF, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellant appeals under 35 U.S.C. § 134 from a Final Rejection of claims 1, 3-16, and 18-38.³ We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ The real party in interest is Sony Ericsson Mobile Communications AB.

² The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

³ Claims 2 and 17 have been cancelled.

Appellant's invention relates to a hand-held electronic device including a transmitter configured to provide a wireless link with a remote electronic display. The device's controller is further configured to provide image data to the remote display in an Internet protocol format, using the wireless transmitter (Spec. 1). In one embodiment, an Internet protocol browser is configured to receive image data and pointer commands from the hand-held electronic device via the wireless link, and provide the image data visually using the display responsive to the pointer commands (Spec. 2).

Claims 1 and 10 are exemplary:

1. A hand-held electronic device comprising:
memory configured to store image data within the hamd-held electronic device;
a transmitter configured to provide a wireless link with a remote electronic display;
a controller coupled to the memory and to the transmitter wherein the controller is configured to provide the image data in an Internet protocol format and wherein the transmitter is configured to transmit the image data over the wireless link in the Internet protocol format: and
a user interface coupled to the controller wherein the user interface is configured to accept user input of pointer commands and wherein the controller and transmitter are configured to transmit the pointer commands over the wireless link to the remote electronic display.

10. An electronic display device comprising:
a display configured to display electronic data;
an Internet protocol browser, wherein the Internet protocol browser is configured to receive image data and pointer commands from a hand-held electronic device without a wired coupling to the hand-held electronic device, wherein the image data is received at the Internet protocol browser in an Internet protocol format, and wherein the Internet protocol browser is configured to provide the image data visually using the display responsive to the pointer commands from the hand-held electronic device.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Zhang	US 2003/0054794 A1	Mar. 20, 2003
DuVal	US 2001/0054114 A1	Dec. 20, 2001

Claims 1, 3-9, 16, 18-24, 31, 32, 35, and 36 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Zhang.

Claims 10-15, 25-30, 33, 34, 37, and 38 stand rejected under 35 U.S.C. § 102(b) as being anticipated by DuVal.

Rather than repeat the arguments of Appellant or the Examiner, we make reference to the Appeal Brief (filed July 24, 2007), the Reply Brief (filed November 29, 2007), and the Examiner's Answer (mailed October 1, 2007) for their respective details.

ISSUES

There are two principal issues in the appeal before us.

1. Did the Examiner err in finding that Zhang teaches a hand-held electronic device with a user interface configured to accept user input from pointer commands, and a controller and transmitter configured to transmit the pointer commands over a wireless link to a remote electronic display?

2. Did the Examiner err in finding that DuVal teaches an electronic display device including an Internet protocol browser configured to receive image data and pointer commands from a hand-held electronic device without a wired coupling, and configured to provide the image data visually using the display responsive to the pointer commands from the hand-held electronic device?

FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

The Invention

1. According to Appellant, the invention concerns a hand-held electronic device including a transmitter configured to provide a wireless link with a remote electronic display. The device's controller is further configured to provide image data to the remote display in an Internet protocol format, using the wireless transmitter (Spec. 1).

2. In one embodiment, an Internet protocol browser is configured to receive image data and pointer commands from the hand-held electronic device via the wireless link, and provide the image data visually using the display responsive to the pointer commands (Spec. 2).

Zhang

3. Zhang teaches providing a hand-held electronic device, such as a PDA or mobile phone, with the capability to act as remote controls for nearby devices. The hand-held device can construct an application specific interface for the device to be controlled by receiving an interface description supplied by a helper server (para. 0010, 0012). In one embodiment, the device to be controlled is a remote display (para. 0027).

4. In the case of a PDA, a helper server passes a graphical interface, for example containing control buttons such as "play", "pause" and "fast forward" (para. 0062).

5. User interactions with the interface are passed back to the helper server, which interprets them according to the specific application (para. 0061).

DuVal

6. DuVal teaches wireless data transport of internet content to a display device. A user downloads a display device driver to a portable electronic device such as a PDA, giving that electronic device control menu capability for the specific display device in use, by transmitting XML commands to the display device (para. 0005, 0029). Specifically, a PDA (internet access device 11) can be used to interrogate display device 10 and determine its control commands, and to generate an appropriate user interface (para. 0016).

PRINCIPLES OF LAW

Anticipation is established when a single prior art reference discloses expressly or under the principles of inherency each and every limitation of the claimed invention. *Atlas Powder Co. v. IRECO Inc.*, 190 F.3d 1342, 1347 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994).

Analysis of whether a claim is patentable over the prior art under 35 U.S.C. § 102 begins with a determination of the scope of the claim. We determine the scope of the claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). The properly interpreted claim must then be compared with the prior art.

In an appeal from a rejection for anticipation, the Appellant must explain which limitations are not found in the reference. *See Gechter v. Davidson*, 116 F.3d 1454, 1460 (Fed. Cir. 1997) ("[W]e expect that the

Board's anticipation analysis be conducted on a limitation by limitation basis, with specific fact findings for each *contested* limitation and satisfactory explanations for such findings.")(emphasis added). *See also In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) (“On appeal to the Board, an applicant can overcome a rejection [under § 103] by showing insufficient evidence of *prima facie* obviousness or by rebutting the *prima facie* case with evidence of secondary indicia of nonobviousness.”) (quoting *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

Our reviewing court states that “claims must be interpreted as broadly as their terms reasonably allow.” *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989). Our reviewing court further states that “the words of a claim ‘are generally given their ordinary and customary meaning.’” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc)(internal citations omitted). The “ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application.” *Id.* at 1313. The description in the specification can limit the apparent breadth of a claim in two instances: (1) where the specification reveals a special definition given to a claim term by the patentee that differs from the meaning it would otherwise possess; and (2), where the specification reveals an intentional disclaimer, or disavowal, of claim scope by the inventor. *Id.* at 1316.

ANALYSIS

Claims 1, 3-9, 16, 18-24, 31, 32, 35, and 36

We select claim 1 as representative of this group, pursuant to our authority under 37 C.F.R. § 41.37(c)(1)(vii).

Appellant argues that Zhang does not anticipate claim 1 because Zhang does not teach a user interface configured to accept user input of pointer commands, nor transmission of pointer commands over a wireless link to the remote display (App. Br. 5-6). In Appellant's view, the user interface in Zhang does not feature a pointer or a corresponding command, and a pointer is "visually and functionally distinguishable" from the control buttons and menus of Zhang because "the graphical image of a pointer is dynamic and thus moves, responsive to user input, to select objects and/or commands" (App. Br. 6).

Appellant's arguments are not persuasive of error in the Examiner's rejection. Zhang teaches the use of a hand-held device, such as a mobile phone or PDA, to control (i.e., send *commands* to) other devices, such as a remote display (FF 3). In the case of a PDA, a helper server passes a graphical interface, for example containing control buttons such as "play", "pause" and "fast forward" (FF 4). The user selects one of those buttons on the touch-sensitive screen of the PDA in a known manner, by *pointing* to the appropriate button with a finger or stylus. User interactions with the interface are passed back to the helper server, which interprets them according to the specific application (FF 5). We agree with the Examiner that Zhang thus teaches a user interface that accepts user input of pointer commands, i.e. commands "corresponding to the location of a graphical pointing device" (App. Br. 6), wherein the pointer coordinates are generated in response to the user's press of a PDA's touch sensitive screen; and that Zhang further teaches transmitting such commands (here, to play, pause, or fast-forward) over a wireless link to a remote electronic display (Ans. 8).

Appellant's argument that Zhang lacks a teaching of a "pointer" is not germane to the claimed invention, which recites only the input and transmission of "pointer commands" and lacks any requirement for the display or manipulation of a "pointer" *per se*. Finally, Appellant's argument that Zhang teaches away from transmission of pointer commands is not relevant to the rejection at issue, which is based on anticipation rather than obviousness.

Because Appellant has not established error in the Examiner's rejection of claim 1 under 35 U.S.C. § 102, we affirm the rejection of claim 1, as well as that of claims 3-9, 16, 18-24, 31, 32, 35, and 36 not separately argued.

Claims 10-15, 25-30, 33, 34, 37, and 38

We select claim 10 as representative of this group, pursuant to our authority under 37 C.F.R. § 41.37(c)(1)(vii).

Appellant argues that DuVal does not anticipate claim 10 because DuVal does not teach "an Internet browser configured to receive *image data and pointer commands* from a hand-held electronic device ... wherein the Internet protocol browser is configured to provide the image data visually using the display *responsive to the pointer commands* from the hand-held electronic device" (Reply Br. 4; emphasis original). As with the rejection over Zhang, *supra*, Appellant argues that DuVal does not teach "pointer commands," and that the Examiner is erroneous in asserting that DuVal's use of XML commands to communicate between a hand-held device and a remote display and browser is equivalent (App. Br. 8-9).

Appellant's argument is not persuasive of error in the Examiner's rejection. DuVal, like Zhang, teaches the use of a hand-held device such as a

PDA to control (i.e., send *commands* to) other devices, such as a display 10 (para. 0008). DuVal teaches that a PDA (internet access device 11) can be used to interrogate display device 10 and determine its control commands, and to generate an appropriate user interface (FF 6). A user would then make an appropriate selection on the PDA's touch-sensitive screen in a known manner, by *pointing* to the appropriate button with a finger or stylus. In response to user input, XML commands are transmitted from internet access device 11 to display device 10 (FF 6).

We agree with the Examiner that DuVal thus teaches providing image data visually using a display responsive to pointer commands (i.e., commands “corresponding to the location of a graphical pointing device” (App. Br. 6), the pointer coordinates being generated in response to the user's press of a PDA's touch-sensitive screen), from the hand-held electronic device, without a wired coupling to the hand-held electronic device, as claim 10 requires (Ans. 11).

Because Appellant has not established error in the Examiner's rejection of claim 10 under 35 U.S.C. § 102, we affirm the rejection of claim 10, as well as that of claims 11-15, 25-30, 33, 34, 37, and 38, not separately argued.

CONCLUSIONS OF LAW

1. The Examiner did not err in finding that Zhang teaches a hand-held electronic device with a user interface configured to accept user input of pointer commands, and a controller and transmitter configured to transmit the pointer commands over a wireless link to a remote electronic display.

2. The Examiner did not err in finding that DuVal teaches an electronic display device including an Internet protocol browser configured

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to receive image data and pointer commands from a hand-held electronic device without a wired coupling, and configured to provide the image data visually using the display responsive to the pointer commands from the hand-held electronic device.

DECISION

The Examiner's rejection of claims 1, 3-16, and 18-38 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

gvw

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